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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAIRO GARCIA,

Defendant.

Case No. 2:21-cr-00224-CDS-VCF

**Stipulation to Extend Briefing Schedule
Regarding ECF No. 72**

IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson, United States Attorney, and K. Nicholas Portz, Special Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Benjamin F. J. Nemec, Assistant Federal Public Defender, counsel for Jairo Garcia, that the government's response deadline to Defendant's Motion for Leave to file Motion to Dismiss (ECF No. 72) currently set for October 5, 2022, be vacated and extended to November 2, 2022. Furthermore, it is stipulated that Defendant's reply deadline to the government's response be reset to November 16, 2022.

The Stipulation is entered into for the following reasons:

1 1. Defendant's motion raises an issue that is based upon a recent Supreme Court
2 ruling and counsel for the government requires additional time to finalize the response; defense
3 counsel will require sufficient additional time to finalize a reply to the government's response.

4 2. The parties agree to the extension of the response and reply deadlines. The
5 defendant is incarcerated and does not object to the extension.

6 3. The additional time requested herein is not sought for purposes of delay, but
7 merely to allow counsel for the government and counsel for the defendant sufficient time within
8 which to be able to effectively litigate the issues at hand and continue in an effort to resolve the
9 case.

10 5. Additionally, denial of this request for continuance could result in a miscarriage
11 of justice. The additional time requested by this Stipulation is excludable in computing the time
12 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18,
13 United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States
14 Code, Section 3161(h)(7)(B)(i), (iv).

15 This is the first stipulation to extend a responsive pleading deadline.

16 DATED this ____ day of September, 2022.

17 JASON M. FRIERSON
18 United States Attorney

 RENE L. VALLADARES
 Federal Public Defender

19 By /s/ K. Nicholas Portz
20 K. NICHOLAS PORTZ
 Special Assistant United States Attorney

 By /s/ Benjamin F. J. Nemec
 BENJAMIN F. J. NEMEC
 Assistant Federal Public Defender

UNITED STATES DISTRICT COURT
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**Findings of Fact, Conclusions of Law,
and Order**

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. The government's response deadline to Defendant's Motion for Leave to file Motion to Dismiss (ECF No. 72) currently set for October 5, 2022, be vacated and extended to November 2, 2022. Furthermore, that Defendant's reply deadline to the government's response be reset to November 16, 2022.

2. The parties agree to the extension of the response deadline for the government and the reply deadline for the defendant. The defendant is incarcerated and does not object to the extension.

3. The additional time requested herein is not sought for purposes of delay, but merely to allow counsel for the government and counsel for the defendant sufficient time within which to be able to effectively litigate the issues at hand and continue in an effort to resolve the case.

4. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United

1 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
2 Section 3161(h)(7)(B)(i), (iv).

3 **CONCLUSIONS OF LAW**

4 The ends of justice served by granting said extension outweigh the best interest of the
5 public and the defendant in a speedy trial, since the failure to grant said extension would be likely
6 to result in a miscarriage of justice, would deny the parties herein sufficient time and the
7 opportunity within which to be able to effectively and thoroughly prepare for trial, taking into
8 account the exercise of due diligence.

9 The extension sought herein is excludable under the Speedy Trial Act, Title 18, United
10 States Code, Section 3161(h)(7)(A), when the considering the facts under Title 18, United States
11 Code, §§ 316(h)(7)(B) and 3161(h)(7)(B)(iv).

12 **ORDER**

13 IT IS THEREFORE ORDERED that the government's response deadline to Defendant's
14 Motion for Leave to file Motion to Dismiss (ECF No. 72) currently set for October 5, 2022, be
15 vacated and extended to November 2, 2022.

16 IT IS FURTHER ORDERED that the Defendant's reply to the government's response
17 will be reset to November 16, 2022.

18 DATED this 27th day of September, 2022.

19 
20 _____
21 UNITED STATES DISTRICT JUDGE
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